

STATE OF MICHIGAN
COURT OF APPEALS

JOHN PREL KELMENDI,

Plaintiff-Appellant,

v

ARCHDIOCESE OF DETROIT, ST. PAUL
ALBANIAN CATHOLIC CHURCH, BISHOP
LEONARD BOYLE, CARDINAL ADAM
MAIDA and ANTON KCIRA,

Defendants-Appellees.

UNPUBLISHED

December 16, 2004

No. 249920

Wayne Circuit Court

LC No. 02-207006-NZ

Before: Murphy, P.J., and White and Kelly, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition. This case is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Plaintiff contends that defendant Kcira, a priest at St. Paul's, defamed him, and he contends that the other defendants are vicariously liable. The alleged defamatory statements appeared in a book published in Albania in the Albanian language. Defendants provided an English translation, and the trial court ruled as a matter of law that the statements were not defamatory. The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

A necessary element of a defamation action is that the defendant made a false and defamatory statement concerning the plaintiff. *Ireland v Edwards*, 230 Mich App 607, 614; 584 NW2d 632 (1998). A defamatory statement is a false statement of fact that, "considering all the circumstances, . . . tends to so harm the reputation of an individual as to lower that individual's reputation in the community or deter third persons from associating or dealing with that individual." *Kevorkian v American Medical Ass'n*, 237 Mich App 1, 5, 8; 602 NW2d 233 (1999). The "court may decide as a matter of law whether a statement is actually capable of defamatory meaning." *Ireland, supra* at 619.

Plaintiff contends that there was a genuine issue of fact whether Kcira said he was mentally ill or something to that effect. Defendants provided an English translation of Kcira's statements. Nowhere did Kcira say that plaintiff was insane, crazy, out of touch with reality, or

mentally deranged. He said that the Archbishop told the Cardinal that plaintiff was “ill” and himself stated that plaintiff was a “sick” person. Once the moving party supports its motion with appropriate evidence, the nonmoving party must by affidavit, deposition, admission, or other documentary evidence set forth specific facts showing that there is a genuine issue for trial. MCR 2.116(G)(4). Plaintiff provided no evidence to show that defendants’ translation was faulty and that Kcira actually said something else. As such, we conclude that the trial court did not err in finding that the statements were not defamatory as a matter of law. The statements constituted either protected opinion or truthful assertions of fact, considering plaintiff’s medical history; the statements were not defamatory. *Ireland, supra* at 614, 620.

Affirmed.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Kirsten Frank Kelly